



INTERIOR BOARD OF INDIAN APPEALS

Upper Sioux Community v. Acting Director, Office of Tribal Services,
Bureau of Indian Affairs

25 IBIA 246 (03/18/1994)



United States Department of the Interior

OFFICE OF HEARINGS AND APPEALS
INTERIOR BOARD OF INDIAN APPEALS
4015 WILSON BOULEVARD
ARLINGTON, VA 22203

UPPER SIOUX COMMUNITY,	:	Order Docketing and Dismissing
Appellant	:	Appeal
	:	
v.	:	
	:	
ACTING DIRECTOR, OFFICE OF TRIBAL	:	Docket No. IBIA 94-68-A
SERVICES, BUREAU OF INDIAN	:	
AFFAIRS,	:	
Appellee	:	March 18, 1994

Appellant Upper Sioux Community, through its Tribal Administrator, Gerald Blue, seeks additional consideration of its application for a grant under the FY 1994 Special Tribal Court Grant Program, announced in the Federal Register on October 14, 1993. 58 FR 53374. On February 15, 1994, the Acting Director, Office of Tribal Services, Bureau of Indian Affairs (BIA), informed appellant that its application would not be funded because it had not received a high enough score in the competitive rating of all applications.

Appellant filed a request for additional consideration with the Branch of Judicial Services, BIA, and served a copy of the request on the Board. The Federal Register announcement does not provide for reconsideration, but only an appeal to the Board. Because appellant's request did not include a copy of the Acting Director's decision, the Board contacted the Branch of Judicial Services to determine what appeal and/or reconsideration information had been included in the decision. The Board was informed that a right of appeal to the Board had been specified, and that no reconsideration by the Branch of Judicial Services or BIA was anticipated. A copy of the decision was provided to the Board. Based on this information, the Board treats appellant's request as a notice of appeal.

Appellant's request states in its entirety:

On February 15, 1994 the Upper Sioux Community received your decision regarding an application for Special Tribal Court Funds. The proposal was denied funds in that it was weak in the area of planning and development, alternatives, it lacked a methodology for monitoring and evaluating the program and provided no task schedule. We have attempted to fill in those gaps and feel that had this been submitted it may have received a higher score and, quite possibly have been funded.

We ask that this amended grant application be reviewed and considered for funding available through the appeals process.

The Special Tribal Court grant program is a competitive program. All tribal applications are due at the same time and all are rated against the same standards. The program was set up in this way because BIA does not have sufficient funds to award a grant to every tribe that applies. Accordingly, only the best applications will be funded.

As with other competitive BIA grant programs, consideration of information presented after the date for filing an application would violate BIA's and the Board's duty to give fair and equitable consideration to all applications, by giving some applicants two opportunities to submit an acceptable application. Cf., e.g., Hughes Village Council v. Acting Juneau Area Director, 24 IBIA 192 (1993) (Small Tribes program); Chippewa Cree Tribe of the Rocky Boy's Reservation v. Acting Billings Area Director, 23 IBIA 129 (1992) (Planning grant program). The Board concludes that the Department cannot consider supplemental information presented after the deadline for filing grant applications under the Special Tribal Court grant program.

Therefore, pursuant to the authority delegated to the Board of Indian Appeals by the Secretary of the Interior, 43 CFR 4.1, this appeal from the Acting Director's February 15, 1994, decision is docketed and dismissed.

//original signed
Kathryn A. Lynn
Chief Administrative Judge

//original signed
Anita Vogt
Administrative Judge